

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LEO J. SCHWARTZ, III,

Plaintiff,

v.

No. CIV 07-1106 RB/LAM

SOCORRO COUNTY DETENTION CENTER, et al.,

Defendants.

**ORDER DENYING AS MOOT PLAINTIFF'S MOTION FOR FREE PROCESS
AND ACCESS TO PACER INTERNET SERVICE**

THIS MATTER is before the Court on Plaintiff's *Motion for Free Process and Access to PACER Internet Service* (Doc. 71), filed on April 14, 2009. The Court has considered the motion, the record of this case and relevant law. For the reasons set forth below, the Court **FINDS** that the motion is not well-taken and should be **DENIED as moot**.

Plaintiff is proceeding *pro se* and *in forma pauperis*. In his motion, Plaintiff asks the Court to grant his *Motion for Free Process and Access to PACER Internet Service* (Doc. 71) to "enable Plaintiff to view in its entirety along with the accessibility to print a copy of the decisions from the Honorable Court, as well as filings and responses by the Defendants[]." On March 12, 2009, the Court entered an *Order Granting Plaintiff's Motion to File Electronically* (Doc. 65) (Doc. 67), whereby the Court "grant[ed] Plaintiff approval to file documents electronically in this case." The Court further directed Plaintiff "to make the necessary arrangements with the Court Clerk to establish an electronic filing account so he can file documents electronically in this case." *Id.* It appears that Plaintiff has established an electronic filing account, and that Plaintiff is receiving Notices of Electronic Filing ("NEF") at the e-mail address he provided the Court. *See Court's Docket for CIV 07-1106 RB/LAM, and NEF for Doc. 70* (showing that an NEF was electronically

mailed to Plaintiff's e-mail address). As stated in Section 4(b) of the *CM/ECF Administrative Procedures Manual* for the United States District Court for the District of New Mexico (October 2008), as a participant in CM/ECF Plaintiff has access to "One Free Look" Upon E-Mail Notice," whereby Plaintiff has an opportunity to view, save, and print any document filed in this case without a fee. Plaintiff, therefore, already has the ability to view and print all documents filed in this case. Moreover, as stated in Section 4(c) of the *CM/ECF Administrative Procedures Manual*, "PACER services are available on-line at any time, but a fee will be charged for electronically viewing docket sheets and documents." Because Plaintiff has electronic access to all documents filed in this case through his CM/ECF account, and because Plaintiff can register for PACER at any time without the Court's approval, the Court finds that Plaintiff's ***Motion for Free Process and Access to PACER Internet Service*** (Doc. 71) is moot. To the extent Plaintiff is asking the Court for *free* access to PACER, the Court notes that it is unaware of any means by which the Court could grant free access to PACER, and, even if it could, Plaintiff would not need it in light of his access to the docket through CM/ECF. In regards to Plaintiff's request for "free process," the Court directs Plaintiff to Section 8(b)(1)-(2) of the *CM/ECF Administrative Procedures Manual*, which explains: "Whenever a pleading or other document is filed electronically . . . CM/ECF will generate a Notice of Electronic Filing (NEF) . . . [and] [i]f the recipient is a Participant in CM/ECF, e-mailing of the NEF is the equivalent of service by first class mail." All parties in this case are "Participants" in CM/ECF, are receiving service of documents through CM/ECF, and, therefore, Plaintiff's request for "free process" is moot.

IT IS THEREFORE ORDERED that Plaintiff's ***Motion for Free Process and Access to PACER Internet Service*** (Doc. 71) is **DENIED as moot**.

IT IS SO ORDERED.

Lourdes A. Martinez
LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE